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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
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11 MILO WAYNE STRAUSBAUGH, ) No. ED CV 10-00818-TJH (VBK)  
12 )  
13 Petitioner, ) ORDER (1) ACCEPTING AND ADOPTING  
14 ) THE REPORT AND RECOMMENDATION OF  
15 v. ) THE UNITED STATES MAGISTRATE  
16 ) JUDGE, AND (2) DISMISSING THE  
17 OCHOA, ) PETITION FOR WRIT OF HABEAS  
18 ) CORPUS  
19 Respondent. )  
20 \_\_\_\_\_ )  
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22 Pursuant to 28 U.S.C. §636, the Court has made a de novo review  
23 of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's  
24 Answer, Petitioner's Reply, all of the records herein and the Report  
25 and Recommendation of the United States Magistrate Judge ("Report").  
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1       **IT IS ORDERED** that: (1) the Court accepts and adopts the Report  
2 and Recommendation, (2) the Court declines to issue a Certificate of  
3 Appealability ("COA");<sup>1</sup> and (3) Judgment be entered denying and  
4 dismissing the Petition with prejudice.

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6 DATED: April 6, 2011

  
7       TERRY J. HATTER, JR.  
8       SENIOR UNITED STATES DISTRICT JUDGE

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21       <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the  
22 applicant has made a substantial showing of the denial of a  
23 constitutional right." The Supreme Court has held that, to obtain a  
24 Certificate of Appealability under §2253(c), a habeas petitioner must  
25 show that "reasonable jurists could debate whether (or, for that  
26 matter, agree that) the petition should have been resolved in a  
27 different manner or that the issues presented were 'adequate to  
28 deserve encouragement to proceed further'." Slack v. McDaniel, 529  
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks  
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.  
1029 (2003). After review of Petitioner's contentions herein, this  
Court concludes that Petitioner has not made a substantial showing of  
the denial of a constitutional right, as is required to support the  
issuance of a COA.